

REMARKS

This responds to the Office Action mailed on November 21, 2008.

Claims 1, 16, 18, and 20 are amended, claims 5 and 17 are canceled, and no claims are added; as a result, claims 1-4, 6-16, and 18-20 are now pending in this application.

§103 Rejection of the Claims

Claims 1-8 and 16-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bauer et al. (U.S. Publication No. 2003/0216969; hereinafter “Bauer”) in view of Horwitz et al. (U.S. Publication No. 2003/0083964; hereinafter “Horwitz”).

Claims 5 and 17 have been canceled without prejudice.

For at least the reasons set forth below, Applicants respectfully submit that, in light of the amendments, a *prima facie* case of obviousness cannot be established and the above-identified claims are patentable over Bauer in view of Horwitz, and they are therefore allowable.

To establish a *prima facie* case of obviousness under 35 U.S.C. §103, the prior art reference (or references when combined) must teach or suggest every limitation of the claim.¹

Applicants have incorporated claim 5 into the amended claim 1; as a result, the amended claim 1 now reads, in pertinent part, “the selections of the master data includes at least one fade out indicator that is stored as associated with the master data and is used to remove data that are not accessed or modified by a fadeout date.” (Emphasis added throughout.)

The Office Action, at page 4, in rejecting claim 5 cites paragraphs 0040, 0055, and 0201 in Bauer, as disclosing the limitation. Applicants respectfully disagree. Bauer in the cited passages describes shelf life of items such as perishable products, expiration date for items, and the View Upcoming Expired SKUs page, as follows:

¹ *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA, 1974). MPEP '2143

A shelf life of the item. A shelf life may be a period of time that an item may be allowed to be included in item inventory 170. For example, perishable products, such as milk, may have a limited period of time that they may be presented on a shelf for sale to a customer. Non-perishable products may also have a limited period of time to be present in inventory 170 based on one or more factors, such as previous sales of items of a similar type, limited promotional time frames, etc.²

The View Upcoming Expired SKUs page 440 may allow the user to filter items individually, by a category of items, by items provided by a particular manufacturer, by a SKU number that may be in a location within environment . . . may allow a user to receive information regarding items that are going to expire within a certain period of time . . . Further, page 440 may display an Upcoming Expired SKU Results page (not shown). This results page may perform a process . . . that may show the locations and associated items that are due to expire within the certain period of time for the given products based on the user defined filter.³

The first quoted passage describes a shelf life of an item that may be a perishable item or of non-perishable products that may also have a limited period of time to be present in inventory. The second quoted passage relates to a View Upcoming Expired SKUs page that allows the user to filter items individually and to receive information regarding items that are going to expire within a certain period of time. However, the “shelf life of the item” or an “expiration within a certain period of time” of an item, as described in the above-quoted passages, is not an indicator of data not being accessed or modified, as required by the amended claim 1. As such, the “shelf life of the item” or a “View Upcoming Expired SKUs page” that allows a user to receive information regarding items that are going to expire within a certain period of time, is not the same as a fade out indicator that is stored as associated with the master data and is used to remove data that are not accessed or modified by a fadeout date. Accordingly, Bauer does not teach or suggest the limitation of “*the selections of the master data includes at least one fade out indicator that is stored as associated with the master data and is used*

² Bauer, Para. 0040.

³ *Ibid.*, Para. 0201.

to remove data that are not accessed or modified by a fadeout date,” as recited in the amended claim 1.

Horwitz provides “a method for tracking each item in a cluster of items.”⁴ Nonetheless, Horwitz does not describe the limitation that Applicants showed above to be missing from Bauer. As such, Bauer and Horwitz, individually or in combination, fail to teach each and every element of the amended claim 1.

Therefore, Applicants respectfully submit that there are substantial differences between what is claimed and what the Office Action contends to be shown in Bauer and Horwitz, whether they are considered separately or in combination. Because the cited documents do not show all of the elements of the claimed subject matter of the amended claim 1, those differences are significant and non-obvious to a person of ordinary skill in the art at the time the application was filed. Furthermore, nothing in the disclosures of Bauer or Horwitz provides a reason for a person of ordinary skill in the art to seek to combine Bauer and/or Horwitz in the manner suggested by the Examiner. Thus, Applicants respectfully submit that the amended independent claim 1 and its dependent claims 2-4 and 6-8 are not rendered obvious by the combination of Bauer and Horwitz and are allowable.

Similar arguments as presented with respect to claim 1 are also applicable to independent claims 16 and 20. Thus, at least for the reasons articulated above with regard to claim 1, the proposed combination of Bauer and Horwitz does not render these claims and their dependent claims 18-19 obvious. Accordingly, claims 16 and 18-20 are asserted to be allowable.

Claims 9-10 and 12 were rejected under 35 U.S.C. §103(a) as being unpatentable over Bauer modified by Horwitz in view of Nicastro et al. (U.S. Publication No. 2002/0073114; hereinafter “Nicastro”).

Claims 9-10 and 12 are dependent on claim 1. Applicants submit that a dependent claim incorporates each of the claim elements of the independent claim from which it properly depends, and more. Applicants assert for the reasons stated in the prior

⁴ Horwitz, paragraph 0021

section, that Bauer in view of Horwitz does not teach or suggest all of the claim elements of claim 1; and the Office Action's proposed combination with Nicastro does not cure the defect. Therefore, Applicants respectfully request withdrawal of the 35 U.S.C. §103(a) rejection and allowance of these dependent claims 9-10 and 12.

Claim 11 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Bauer modified by Horwitz and Nicastro in view of Cesar et al. (U.S. Patent No. 6,172,596; hereinafter "Cesar").

Claim 11 is dependent on claim 1. Applicants submit that a dependent claim incorporates each of the claim elements of the independent claim from which it properly depends, and more. Applicants assert for the reasons stated in the prior section, that Bauer in view of Horwitz does not teach or suggest all of the claim elements of claim 1; and the Office Action's proposed combination with Nicastro in view of Cesar does not cure the defect. Therefore, Applicants respectfully request withdrawal of the 103(a) rejection and the allowance of dependent claim 11.

Claims 13-15 were rejected under 35 U.S.C. §103(a) as being obvious over Bauer modified by Horwitz and Nicastro in view of Seelinger (U.S. Publication No. 2002/0087554).

Claims 13-15 are dependent on claim 1. Applicants submit that a dependent claim incorporates each of the claim elements of the independent claim from which it properly depends, and more. Applicants assert for the reasons stated in the prior section, that Bauer in view of Horwitz does not teach or suggest all of the claim elements of claim 1; and the Office Action's proposed combination with Nicastro in view of Seelinger does not cure the defect. Therefore, Applicants respectfully request withdrawal of the 35 U.S.C. §103(a) rejection and allowance of these dependent claims 13-15.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone the undersigned at (408) 278-4053 to facilitate prosecution of this application.

If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(408) 278-4053

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By



Ali Mireshghi
Reg. No. 58,726

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on February 17, 2009.

Dawn R. Shaw

/Dawn R. Shaw/

Name

Signature